

University of Florida
Fund-Raising Policy Statement
Procedures for Accepting All Types of Real Property

Revised and Approved by
University of Florida Foundation, Inc.
Board of Directors – Real Estate Committee
October 6, 2000

Many gifts received by the University of Florida Foundation, Inc. (UFF) for the University of Florida (UF) are gifts of real property. Also, in furtherance of our mission, UFF may acquire interests in real property by non-gift means for use by UF. Most frequently, UFF markets gifts of real property. The proceeds are used for the charitable purposes specified by donors.

The following policies have been adopted by the UFF Board relating to the acceptance, management, and liquidation of real property. All appropriate inquiries will be made concerning the condition of real property, including marketability, carrying costs, and environmental risks, prior to acquisition by UFF in any capacity.

The following requirements must be met for the acquisition of any interest in real property, in any capacity, *prior to* acceptance or recording of any documents:

Real Estate Staff Site Visit and Analysis

For all real property interests to be received by UFF, the Assistant Vice President for Administration - Real Estate, or his or her designee, will inspect the real property. The real estate staff (Real Estate Staff) will review all required documentation. The Real Estate Staff will analyze the following, among other things:

1. market conditions for resale or the ultimate disposability of the property;
2. the condition of any improvements located on the property;
3. current and potential zoning, land use, and concurrency issues;
4. any costs associated with holding the property for resale; and

5. other considerations specific to the acquisition of the property.

The Real Estate Staff will consult with the Real Estate Team as appropriate. The Real Estate Team comprises the Assistant Vice President for Administration-Real Estate, legal staff (Legal Staff), and Controller.

General Warranty Deed

Title will be transferred to UFF by general warranty deed unless transfer is by a trustee, personal representative, or other fiduciary who will provide a deed with warranties appropriate to its capacity. Legal Staff will review all deeds.

Appraisal

The IRS requires the donor to obtain an appraisal if the value of the real property is over \$5,000 and the donor wishes to claim a charitable contribution income tax deduction. For proper accounting, marketing, and donor recognition purposes, an appraisal is requested for all real property gifts. In the absence of an appraisal, the real property will initially be recorded at \$1.00.

Title Search and Title Insurance

A title search may be required for any real property transaction. A title search and title insurance will be required for gift acquisitions of mortgaged property and all non-gift acquisitions.

Owner's Affidavit

An owner's affidavit in a form approved by the Real Estate Committee is required for all real property acquisitions.

Survey

A survey may be required for any real property transaction. A survey will be required for gift acquisitions of mortgaged property and all non-gift acquisitions, unless the Real Estate Staff and Legal Staff determine existing surveys or drawings are adequate.

Real Property Taxes and Other Carrying Costs

Evidence must be provided by the donor that all real property taxes and other carrying costs are paid and current. Donors will be encouraged to pay all or prorate the taxes and other carrying costs for the year of the donation.

Mortgaged Property

UFF rarely accepts mortgaged property and never accepts mortgaged property into a charitable remainder unitrust. Real property may be acquired subject to a mortgage, if the mortgage is current and assumable and only following Real Estate Committee and Real Estate Team approval. Prior to acceptance:

1. a clearly established method for the payment of the debt must be determined;
2. an MAI appraisal will be required; and
3. the loan-to-value ratio must be not more than 50 percent.

Leases

When real property is acquired subject to a lease, leases must not be in default and must be assignable by the landlord. Commercial property acquired subject to a lease will only be accepted following Real Estate Team approval. Following approvals, and upon transfer of the property, the leases must be assigned to UFF

and all deposits, advance rents, and other monies transferred to UFF or otherwise accounted for as required by law.

Special Deed Clauses

The Real Estate Committee and Real Estate Team must approve in advance any special deed clauses.

College or Unit Agreement

Each college or unit benefiting from a gift or other acquisition of real property must agree, in writing prior to acceptance or acquisition, to pay any taxes, insurance, mortgage payments, and all other holding and carrying costs incurred by UFF until the real property is liquidated. The written approval will authorize the Assistant Vice President for Administration – Real Estate to disburse monies for these expenses and will identify an appropriate UFF fund of the college or unit from which the monies are to be disbursed. Because of IRS requirements, this policy will not apply to charitable remainder unitrusts.

Environmental Requirements

No interest in real property, whether outright, in trust, by bequest, as a secured interest, or otherwise, will be accepted by or on behalf of UFF without first complying with the following procedures:

1. An environmental review as described below shall be performed on every potential real property asset prior to acceptance by UFF. The environmental review will be performed by the person or firm selected by the Real Estate Committee (approved consultant). Each environmental

review will be reviewed and approved by the Assistant Vice President for Administration - Real Estate and Legal Staff.

Residential, Rural, or Agricultural: For real property located in a developed residential community, a rural area, or an agricultural area, an Environmental Risk Assessment will be performed by an approved consultant.

Industrial: For real property located in a developed area where manufacturing or any class of industrial activity may have taken place, a Phase I audit will be performed by an approved consultant.

High Risk Operations: For real property with present or past high-risk operations, a Phase I audit will be performed by an approved consultant.

2. If the environmental review indicates areas of significant concern, an additional investigation, including a Phase I, Phase II, or Phase III audit, as recommended, will be performed by an approved consultant prior to acceptance of the real property.
3. If the above procedures disclose risk of liability, the real property will only be accepted with the approval of the Real Estate Committee.
4. All contracts for environmental audits will be prepared and reviewed by the Legal Staff.
5. The donor will be encouraged to pay for any assessments and audits.

Unsolicited Deeds

Unsolicited deeds will not be accepted. Upon the receipt of an unsolicited deed, the Real Estate Staff will immediately notify the grantor (in writing) that the real property has not been accepted and will not be accepted until the requirements of this policy are met, and the deed will be returned to the donor, along with a quitclaim deed from UFF if necessary.

Special Types of Acquisitions

In addition to the above requirements, the following types of real property require additional items *prior* to acquisition:

Properties Valued at Less than \$10,000

For real property valued at less than \$10,000, the donor must pay all costs of transfer to UFF, including those incurred through environmental assessments and title searches, and all real estate taxes. For purposes of complying with the \$10,000 limit, real property value will be determined either by an appraisal, the ad valorem tax-assessed value, or determination by the Real Estate staff.

Real Property Given to Fund Charitable Remainder Unitrusts

Real property will only be accepted to establish net income unitrusts or "flip trusts." IRS rules prohibit the acceptance of mortgaged property to fund charitable remainder unitrusts.

Real Property Given to Fund Charitable Gift Annuities

Real property will not be accepted to fund charitable gift annuities.

Time Share Units

Time-share units will not be accepted by UFF.

Procedures for the Sale and Management of Real Property Gifts

1. The Assistant Vice President for Administration - Real Estate and the Legal Staff are authorized to charge routine property carrying expenses such as taxes, insurance, maintenance, travel, surveying, engineering, title examination, and closing and other costs to the college or unit benefiting from the real property. These expenses will be reported regularly to the appropriate fund administrators.
2. The Real Estate Staff will diligently work to obtain the best price and terms in the shortest amount of time for all real property. However, real property may be held for the production of income or appreciation after consultation with all interested parties and approval of the Real Estate Committee.
3. The Real Estate Staff will attempt to have all properties listed or for sale at all times.
4. No referral fee will be paid to any broker securing a gift of real property. Special consideration may be given to the procuring broker when listing the real property for sale, provided any such agreement to list is non-binding on UFF and the fees are not in excess of customary local fees.

Use of Brokers

1. The Real Estate Staff is encouraged to provide all brokers equal access to its real property inventory. This will not preclude the use of exclusive listings.
2. Whenever possible, the Real Estate Staff will solicit recommendations regarding local brokers and the general marketing effort from local Board members, friends of UF, and the donor.
3. The payment of fees to brokers when they are principals is discouraged, unless it is the local custom. In such an event, the fee will be reduced by the proportion of the broker's interest in the transaction.

Real Property Sold Without Signed Listing Agreements

1. The Real Estate Staff will use all normal means of marketing—including signs, advertising, brochures and open listings—in their efforts to market real property.
2. The Real Estate Staff will attempt to negotiate reduced fees when the brokers present buyers arising from in-house marketing efforts.

Listing Price Determination

1. Real property will be listed at not less than the approved price. The approved price will be determined by either of the following:
 - a. If a qualified appraisal, dated within two years, is available, the Real Estate Staff will set the approved price at not less than the value contained in the appraisal. If no appraisal is available, or file appraisals are more than two years old, the Real Estate Staff will

attempt to determine market value via market inquiry, competitive market analysis, or updated or new appraisals and will recommend an approved price at that price. At least once a year, the Real Estate Committee will approve the approved price for all real property holdings.

2. For internal record keeping, if no appraisal is provided, then the real property will be entered on the books (book value) for \$1.00. A reasonable time will be allowed for the donor to provide an appraisal. If an appraisal is received, book value will be adjusted accordingly.

Acceptance and Execution of Contracts

1. The Assistant Vice President for Administration - Real Estate and the Legal Staff will review and comment upon each contract prior to its presentation to either the Real Estate Committee for review, or to the appropriate UFF officer for execution. Contracts will be subject to the following:
 - a. On all contracts with sales prices of less than \$1,000,000, the Executive Vice President, or his or her designee, or the Associate Vice President for Administration, are authorized to execute sales contracts without Real Estate Committee approval, if (1) the sales price is at least the approved price, and (2) the sales contract contains standard terms.

- b. Contracts with sales prices equal to or exceeding \$1,000,000 require the approval of the Executive Committee and the Real Estate Committee, prior to execution by the Executive Vice President or his or her designee, or the Associate Vice President for Administration.
 - c. All other contracts require Real Estate Committee approval prior to execution by UFF.
 2. The Real Estate Staff is encouraged to seek the advice of Real Estate Committee members when negotiating sales contracts.
 3. The Secretary of UFF, or his or her designee, will keep minutes of all actions of the Real Estate Committee.
 4. If sales are financed, they will be subject to the approval of the Real Estate Committee and Real Estate Team.

Mortgage Modification

1. Requests for modifications to mortgages held by UFF will be considered by the Real Estate Staff upon:
 - a. written request submitted by the borrower, which describes the terms to be modified; and
 - b. evidence that real estate taxes are current.
2. Real Estate Committee approval will be required.
3. The borrower will pay for all costs associated with the modification, including:

- a. \$150.00 document modification fee (which includes recording fees and preparation of renewal promissory note and mortgage modification); and
 - b. title update and endorsement to title policy (or new title policy if none exists) acceptable to the Legal Staff.
4. All mortgages will contain or be modified to include the then standard loan document terms, including:
- a. 5 percent late fee after 10 days;
 - b. payment due date of the first of the month; and
 - c. environmental indemnity.

Leasing

Leases with UF

1. The Real Estate Staff may negotiate leases with UF at less than market or nominal rents, provided the use of the real property (1) is non-profit and in furtherance of UF's objectives and UFF's mission and (2) does not result in any cost to UFF. The leases may not result in a negative cash flow to UFF unless the college so benefiting agrees in writing, in advance, to underwrite the losses.
2. All leases will be negotiated and executed in accordance with the Board of Regents' policies and procedures.
3. The Legal Staff will review and approve all such leases prior to execution.

Other Leases

1. Upon approval of the lease by the Legal Staff, the Assistant Vice President for Administration - Real Estate is authorized to execute leases that are within the following guidelines:
 - a. a base lease term of no more than 5 years;
 - b. renewal options which, together with the base term, do not exceed 10 years;
 - c. appropriate rent escalator clauses for all renewal options;
and
 - d. total rent for the base term of no more than \$100,000.
2. All leases entered into by the Foundation will be reported to the Real Estate Committee at its next meeting.
3. Any lease that does not meet all of the above guidelines will require Real Estate Committee approval.
4. The Real Estate Staff may delegate leasing and management functions to outside professional management firms when deemed appropriate.

Management and Transfer of Real Property

All real property held by UFF in any capacity will be managed in a manner designed to comply with all federal and state regulations and to minimize or eliminate any liability resulting from hazardous materials. The sale or transfer of real property by UFF will be handled in a manner designed to eliminate any future

liability by UFF for hazardous substance remediation. UFF will fully disclose to a prospective transferee any and all information concerning the condition of any hazardous substances existing on the real property. UFF may convey title to real property only by means of a special warranty deed or (where appropriate) a trustee's deed without warranties or quitclaim deed.

Non-Discrimination

UFF will not discriminate or condone discrimination in its real property activities. UFF will conduct all affairs in compliance with all applicable state and federal Equal Opportunity, Fair Housing, Equal Credit Opportunity, and other anti-discrimination laws.

Exceptions

Upon written request by the Assistant Vice President for Administration – Real Estate, exceptions to these policies and procedures will be considered on an individual basis by the Real Estate Committee after consultation with the Real Estate Team.

Adopted by the Real Estate Committee of the Board of Directors of the University of Florida Foundation, Inc. on October 6, 2000.